



WP (MD) No.18689 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.18689 of 2023

Anantharaj

... Petitioner

Vs

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.The Inspector of Police,
CSCID-Madurai,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the second respondent herein to release the petitioner's vehicle in Ashok Leyland Dost bearing Registration No.TN-65-AU-3486 on the basis of the petitioner's representation, dated 26.07.2023 within the time stipulated by this Court.



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For petitioner : Mr.C.Moovendran
For R1 : Mr.M.Sarangan
Additional Government Pleader
For R2 : Mr.P.Kottaichamy
Government Advocate (Crl.side)

ORDER

The petitioner's vehicle bearing Registration No.TN-65-AU-3486 was seized by the 2nd respondent Police on 13.07.2023 at about 06.30 hours and the case was registered in Crime No.68 of 2023 for the offence under Sections 2(e) (V), 2(e)(VI), 2(e)(VII) of Motor Spirit & High Speed Diesel (Regulation of Supply & Distribution & Prevention of Malpractices) Order, 1998 and Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

2.The petitioner has filed this writ petition for a writ of mandamus to release the vehicle bearing registration No.TN-65-AU-3486. The learned Counsel appearing for the petitioner by referring the orders of this Court in WP(MD)No. 4265 of 2023 submits in similar issue this Court granted custody of the vehicle, which involved in similar offences.



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3. This Court by following the decision of the Hon'ble Supreme Court in ***Sunderbhari Ambalal Desai and others Vs State of Gujarat***, reported in ***(2002) 10 SCC 283*** has allowed the writ petition in W.P(MD)No.4265 of 2023 with certain directions:

4. Section 6(A) of the Essential Commodities Act enables the officers responsible to confiscate any commodity so seized and vehicle which has been used for transportation. However same has to be proceeded without any unreasonable delay by the District Collector of the concerned District. It appears that the vehicle which has been seized on 13.07.2023 and no notice for confiscation has been issued.

5. In ***Sunderbhai Ambalal Desai and others Vs State of Gujarat***, reported in ***(2002) 10 SCC 283*** the Hon'ble Supreme Court has held as follows:

“17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of



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time. This can be done pending hearing of applications for return of such vehicles.”

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6.This writ petition is filed on 28.07.2023. The respondents despite taking notice and getting sufficient opportunities have not submitted any report. Therefore, in view of the decision of the Hon'ble Supreme Court and the orders of this Court in WP(MD)NO.4265 of 2023, this writ petition is disposed of with the following directions:

- (i) The petitioner shall produce a surety for a sum of Rs.25,000/- before the 2nd respondent ;
- (ii) The petitioner shall file an undertaking affidavit that he would produce the vehicle as and when required by the respondents for enquiry;
- (iii) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed. No costs.

07.08.2023

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To

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B.PUGALENDHI, J.

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